

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	MDL No.: 1:13-md-2419-FDS
IN RE: NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	
LITIGATION)	
)	DECLARATION OF FREDERICK H.
This Document Relates to:)	FERN IN OPPOSITION TO
All Cases)	PLAINTIFFS' MOTION FOR
)	MANDATORY ABSTENTION
_____)	

I, Frederick H. Fern, hereby declare:

1. I am an attorney at law licensed to practice in the State of New York and admitted *pro hac vice* to practice before this Court. I am a member of the law firm Harris Beach PLLC, Proposed Counsel for Paul D. Moore, Chapter 11 Trustee of New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center ("NECC") and make this Declaration based on my own personal knowledge and in Opposition to the Roanoke Gentry Locke Plaintiffs' Motion for Mandatory Abstention.

2. On or about October 9, 2012, plaintiffs' counsel wrote to NECC advising of plaintiff Sharon Wingate's claims against NECC and requesting that NECC preserve records in anticipation of litigation. A copy of counsel's October 9, 2012 correspondence is annexed hereto as Exhibit **A**.

3. On or about November 20, 2012, Sharon Wingate (hereinafter "plaintiff") filed a complaint against NECC in the Western District of Virginia. A copy of plaintiff's Federal Court Complaint is annexed hereto as Exhibit **B**.

4. On or about December 27, 2012, plaintiff filed a complaint in The Circuit Court for the City of Roanoke (the "Virginia State Court Action"). A copy of plaintiff's State Court Complaint is annexed hereto as Exhibit **C**.

5. On or about January 24, 2013, Insight Health Corp. (“Insight”) demurred to Plaintiff’s State Court Complaint. A copy of Insight’s Demurrer of is annexed hereto as Exhibit **D**.

6. On or about January 24, 2013, Insight filed a motion seeking an extension of time to join NECC as a party in the Virginia State Court action. A copy of Insight’s Motion for Extension of Time to Join NECC with Certificate of Service is annexed hereto as Exhibit **E**.

7. On or about February 11, 2013, Insight filed a motion seeking an extension of time to file a third-party complaint to join NECC in the Virginia State Court Action. A copy of Insight’s February 11, 2013 Motion For Extension of Time to File Third-Party Complaint and Certificate of Service are collectively annexed hereto as Exhibit **F**.

8. On or about April 4, 2013, Insight removed the Virginia State Court Action to the United States District Court for the Western District of Virginia. A copy of Insight’s Notice of Removal with exhibits annexed hereto as Exhibit **G**.

I declare under penalty of perjury and in accordance with the laws of the United States of America that the foregoing is true and correct.

Respectfully Submitted,

Dated: May 2, 2013

HARRIS BEACH PLLC

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